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1951.

File No. Industrial Disputes II/51(R)

Legal Department-
B **BRANCH**

Subject:— Rules under the Industrial Disputes, 1947

P=2
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File No. Industrial Disputes II/51(R)

Gen. 194 e.

376-B

Office of the R.L.A.

A revised draft notification in place of L.& H.D. draft is sent herewith.

The intention of L & H.D. would be better carried out by deleting the existing proviso to rule 37 in the Industrial Disputes (Bombay) Rules, 1947, and adding a new rule after rule 37 empowering an employer, both in cases where the workmen's repersentatives are to be elected in wo groups and in cases where they are not to be so elected, to sub-divide a constituency or constituencies, as the ca e may be, and direct that workmen shall vote in groups, sections, shops or departments. The revised draft accordingly deletes the proviso to rule 37 and adds a new rule 37A after rule 37.

O.C. Sd/-
3/11

Remembrancer of Legal Affairs.

U.R. to L.& H.D. No. 17346, dated the 5th November 1951.

4 c.
V.R.K.
16/7/56

Legal Department.

A revised draft notification is sent herewith.

2. Rule 32 and FormXI - Under section 33 of the Industrial Disputes Act, 1947, the employer is empowered during the pendency of any proceeding, with the permission of the Conciliation Officer, Board or Tribunal, to alter any condition of service applicable to an employee immediately before the commencement of such proceedings or discharge or punish whether by dismissal of otherwise any workman concerned in the dispute. Similar Similarly under section 33A an employer is empowered to make a complaint as provided in that section. Rule 32 merely provides for prescribing the form in which an employer should approach the Tribunal etc. for seeking its permission. Although section 33 does not in express terms provide for prescribing any form for obtaining the permission of the Tribunal etc,. the provision prescribing the form is merely ancillary to the ~~xxx~~ provisions contained in amended section 33 and new section 33A and is covered by the provisions of sub-section (1) and clause (g) of sub-section (2), of section 38. The view expressed by the Millowners Association in this behalf is not correct.

3. Rule 34.- It is true that under draft rule 34 read with Form XIII the opposite party is called upon to show cause why the application should not be granted. But that in itself does not mean that the Tribunal, Board or Conciliation Officer must necessarily hold a detailed inquiry or is legally required to hold a detailed inquiry under the said rule 34. The draft rule does not therefore empower any of the said authorities to hold any detailed inquiry. The ruling of the Madras High Court is therefore not applicable to the provisions of rule 34. The The view expressed by the Association in this behalf is not correct. The draft rule 34 is therefore legally in order.

Oc. Sd/-
9/3
Secretary to Government.

4 c.
V.R.K.
16/7/56

U.R. to Labour and Housing No. 5972, dated 9th Mar. 1951